

Application No.: 09/427,657

Attorney Docket No: 28967/35061A

**REMARKS****I. PROSECUTION HISTORY**

In a final action mailed July 26, 2004, the Office rejected claims 1-8, 10-18, 22-32, 49-58 and 63-100, the remaining claims having been canceled. Upon entrance of this amendment claims 1, 2, 10, 11, 14-18, 22-28, 49-51, 65-70, 73, and 74 will be pending, and Applicants submit ready for allowance.

**II. EXPLANATION OF CLAIM AMENDMENTS**

Support for the amended claims are found throughout the specification. No new matter is added by this amendment. For example, claim 1 finds support in now canceled claims 12 and 13. Applicants reserve the right to pursue, in this or related applications, claims directed to any unclaimed subject matter whether originally claimed, later claimed, or not previously claimed.

**III. THE SPECIFICATION AS FILED ENABLES THE CLAIMS**

Beginning on page 2 of the action, the Office maintained its rejection under 35 U.S.C. § 112, first paragraph, of claims 1-8, 10-18, 22-29, 31-32, 49-58, and 63-100 for alleged lack of enablement. The Office did state that the claims were enabled insofar as they recited a replication-deficient adenovirus comprising a polynucleotide comprising a nucleic acid sequence encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 2. As the claims have been amended to that recitation to expedite prosecution, Applicants submit that the rejection is moot and should be withdrawn.

**IV. THE REJECTION UNDER § 102 HAS BEEN RENDERED MOOT**

On page 9 of the action, the Office maintained its rejection under 35 U.S.C. § 102 of claims 29, 71-72, 98 and 100 as allegedly anticipated by Alitalo WO 97/05250. Claims 29, 71-72, 98 and 100 have been canceled rendering the rejection moot.

**V. SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

On May 24, 2004, Applicants filed a supplemental Information Disclosure Statement (IDS). However, the Office has not yet returned an Examiner-initialed copy of the Form PTO-1449 that Applicants supplied with the supplemental IDS. Applicants respectfully request receipt of such initialed copy. If the Examiner needs a copy of the Form PTO-1449 to initial, Applicants will supply a copy upon request.

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### CONCLUSION

Applicants respectfully request prompt reconsideration of the pending claims. The claims are believed to be in condition for allowance in view of the foregoing amendments and remarks. Withdrawal of the rejections and allowance of the claims are respectfully solicited.

The Office is invited to contact the undersigned at the telephone number listed below in order to discuss any remaining issues or matters of form that will move this case to allowance.

Respectfully submitted,

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By



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